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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jiro YAMADA

Group Art Unit: 2655

Appln. No.: 09/778,895

Examiner: J. L. Ortiz Criado

Filed: February 8, 2001

For: MULTIMEDIA COPY CONTROL SYSTEM AND METHOD USING DIGITAL DATA RECORDING MEDIUM AND OPTICAL DISC REPRODUCING APPARATUS

REPLY BRIEF UNDER 37 C.F.R. §1.193

Commissioner for Patents
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop_____
Crystal Plaza Two, Lobby, Room 1B03
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Sir :

In response to the Examiner's Answer, dated June 29, 2004, to the Appeal Brief filed April 5, 2004, Appellant submits the present Reply Brief. The date set for submission of the present Reply Brief is August 30, 2004 (August 29, 2004 falling on a Sunday).

Appellant maintains that each reasons set forth in the Appeal Brief filed April 5, 2004 for the patentability of the pending claims is correct and again respectfully requests that the decision of the Examiner to finally reject claims 1-14 be reversed and that the application be returned to the Examining Group for allowance.

REMARKS

Preliminary Issue

Initially, Appellant notes that the Examiner's statement in the "Issues" Section (6) of the Examiner's Answer, is correct. In this regard, in the "ISSUES" Section (6) of the Appeal Brief submitted on April 5, 2004, Appellant erroneously indicated that issues exist as to whether claim 9 was improperly rejected under both 35 U.S.C. §102(e) and 35 U.S.C. §103. However, in the Final Official Action dated August 11, 2003, claim 9 was rejected under 35 U.S.C. §102(e) over MATSUMOTO and not under 35 U.S.C. §103 over MATSUMOTO. Accordingly, with respect to claim 9, the only issue is to whether claim 9 is improperly rejected under 35 U.S.C. §102(e).

The Substance of the Examiner's Arguments

The "Grounds of Rejection" (10) at pages 3-13 relies on the same reference (MATSUMOTO) previously applied to reject the claims, although the "Grounds of Rejection" now appears to newly apply additional sections of MATSUMOTO to features of the present claims. However, with respect to the new application of additional sections of MATSUMOTO to the present claims, Appellant respectfully notes that the "Grounds of Rejection" at pages 3-13 merely adds citations to text, including multiple columns in at least one part, without adding any explanations as to the basis of the Examiner's new citations. For example, with respect to the feature of "when said first copy control detector... based on the first copy control information" recited in claim 1, the Examiner asserts, at page 5, lines 6-7 of the Examiner's Answer "(See col. 2, lines 1-44; col. 9, lines 3-26; col. 10, line 18 to col. 15 line 48; col. 11, Table)", though, for the same feature, the Examiner previously asserted, at page 3, line 12 of the Final Official Action "(See col. 2, lines 1-21; col. 15, lines 16-26;

col. 11, Table)". Insofar as the Examiner does not provide, in the "Grounds of Rejection", new substantive arguments for the newly applied sections of MATSUMOTO, it is respectfully submitted that the Appeal Brief filed April 5, 2004 has fully addressed the arguments made by the Examiner with respect to the applied reference. Accordingly, Appellant has hereinafter limited the substantive remarks of the present Reply Brief to substantively addressing Remarks in the "Response to Argument" section (pages 13-27) of the Examiner's Answer. In view of the herein-contained remarks, Appellant again submits that each of the reasons set forth in the Appeal Brief filed April 5, 2004 for the patentability of the pending claims is correct.

Claims 1, 5 and 7

Appellant submits that MATSUMOTO does not disclose or suggest a "[a] multimedia copy control system for controlling a copy of a digital data recording medium... comprising... a first copy control detector... and... a second copy control detector... wherein... when said first copy control detector detects the first copy control information, the reproduction of the digital audio data is controlled based on the first copy control information, and when said first copy control detector detects no first copy control information, the reproduction of the digital audio data is controlled based on the second copy control information", as is recited in claim 1, or the similar features of claims 5 and 7.

Initially, with respect to the first argument of the Examiner's Answer, at pages 13-15, the Examiner argues that the teachings of MATSUMOTO applied in the Final Official Action are not inconsistent. In this regard, anticipation is not established if in reading a claim on something disclosed in a reference it is necessary to pick, choose and combine various portions of the disclosure

not directly related to each other by the teachings of the reference. In re Arkley, 455 F.2d, 586, 587-588, 172 USPQ 524, 5216 (CCPA 1972). Appellant respectfully submits that at least several of the various portions of the disclosure in MATSUMOTO applied by the Examiner are not only "not directly related", but are also contradictory and incompatible.

In particular, Appellant respectfully submits that the different isolated forms of copy control admitted in MATSUMOTO as "prior art", are explicitly admitted as distinct methods that are independently applied, i.e., CCI or watermark information. Accordingly, Appellant again asserts that such distinct methods of prior art as described in MATSUMOTO (i.e., using only CCI or watermark) are inapplicable and not properly combined with the teachings of the invention disclosed in MATSUMOTO. In this regard, MATSUMOTO is directed to a copy restriction method using the CCI and the watermark and the input state or error correction code/error information. For example, at column 2, lines 52-57, MATSUMOTO explicitly discloses "determining whether the digital recording medium... is authorized or not, based on the copy control information, the electronic watermark, and the error information having the particular pattern" (emphasis added). As should be apparent, it is impossible to usefully combine a teaching of using multiple methods (as in MATSUMOTO) with a teaching of using only one such method, (as in the prior art to MATSUMOTO), to obtain the alternative control using one such method or another, based on the presence or absence of information for a first method, as in the invention recited in claim 1 of the present application. Accordingly, Appellant again submits that it is logically impossible to combine the teachings of the admitted prior art described in MATSUMOTO to the invention as described in MATSUMOTO. Therefore, Appellant again respectfully submits that the isolated teachings of the

"Prior Art" described in MATSUMOTO should not be properly combined with the invention that constitutes the essential teachings of MATSUMOTO, at least because the invention of MATSUMOTO relates to using numerous methods in combination (i.e., not alternatively).

With respect to the second argument of the Examiner's Answer, at pages 15-16, the Examiner argues that MATSUMOTO discloses "when the system is connected using digital input/output, the digital data is transmitted and both control information CCI and Watermark are present and detected by the system, and when the system is connected by analog input/outputs, the second copy control Watermark information is present". In this regard, Appellant initially notes that, even if taken as true, the above-noted statement would not meet the above-noted features of the invention recited in claim 1. Rather, according to the invention recited in claim 1, when the first copy control detector detects the first copy control information, the reproduction... is controlled based on the first copy control information (i.e., not the first and second copy control information), and when the first copy control detector detects no first copy control information, the reproduction... is controlled based on the second copy control information.

Furthermore, the Examiner takes the isolated teaching of column 15, lines 8-9 to assert that reproduction is controlled based on the first copy control information (i.e., CCI) when the first copy control information detects the first copy control information (CCI). However, as can be seen by inspection of the Table at Column 11 that is being described, the reproduction is not controlled based on the first copy control information (i.e., CCI) when the first copy control information is detected. Rather, the same values for the CCI result in different "legality" judgements throughout the Table. For example, a CCI = 11 results in a judgement of "legal" in the first entry, the tenth entry and the

sixteenth entry, but "illegal" in the fourth entry, the seventh entry and the thirteenth entry. Thus, the reproduction is not controlled based on the first copy control information (i.e., CCI) when the first copy control information is present in MATSUMOTO.

Additionally, when the CCI is not present, and therefore not detected, the Table at column 19 (see the nineteenth and twentieth entries) indicates that the legality is consistently judged as "legal", regardless of the value of the second copy control information (i.e., Watermark) . In other words, the reproduction is not controlled based on the second copy control information, as the value of the second copy control information does not affect the outcome of the "legality" judgement.

Furthermore, the input data is not a "digital contents unit" for the nineteenth and twentieth entries; rather, nineteenth and twentieth entries of the Table at column 11 are directed to accommodation for "conventionally existing analog signals", which are unrelated by definition to the invention recited in claim 1. In this regard, column 15, lines 36-48 of MATSUMOTO describe a "system of digital reproduction/recording apparatuses that employ data transmission using conventionally existing analog signals". However, such analog signals by definition do not relate to the "digital audio data" that is variously stored, reproduced and recorded in claim 1. In other words, the nineteenth and twentieth entries of the table in MATSUMOTO are directed to analog input signals, and not to digital audio data stored in a digital data recording medium as in claim 1.

Accordingly, Appellant again submits that MATSUMOTO does not disclose or suggest controlling the reproduction of digital audio data using first copy control information or second copy control information, based on whether the first copy control information is detected. Therefore, Appellant again respectfully submits that the combination of features recited in claim 1 are not

disclosed or suggested by MATSUMOTO.

With respect to the third argument of the Examiner's Answer, at page 17, Appellant notes that the above-noted remarks explain the teachings of MATSUMOTO and their failure to disclose or suggest the related recitations of claim 1.

With respect to the fourth argument of the Examiner's Answer, at pages 17-18, the Examiner improperly characterizes Appellant's arguments at pages 17 to 22 of the Appeal Brief, as being that "Matsumoto does not disclose or suggest an decryption decoder and/or encoder configured to decrypt data". Appellant respectfully submits that the Examiner has failed to appreciate the scope of Appellant's arguments.

In particular, Appellant had admitted that MATSUMOTO discloses that a Decoder 25 in Figure 3 may be provided before the CCI Judging Unit, rather than after the Watermark Judging Unit 27 (see paragraph bridging pages 17-18 of the Appeal Brief). However, even if the Decoder 25 was placed before the CCI Judging Unit 28 (as the Examiner asserts is possible, and as would be necessary for the Decoder 25 to be in a position to be a "decoder configured to decrypt reproduction data" such that a first copy control detector 28 could "detect the first copy control information from the decrypted reproduction data" as recited in claim 1), MATSUMOTO does not disclose that the Decoder 25 decrypts reproduction output data. Further, MATSUMOTO does not disclose that the Decoder 25 extracts digital audio data from the decrypted reproduction data. Furthermore, MATSUMOTO does not disclose that the CCI Judging Unit 28 detects CCI information from decrypted reproduction data, as the Decoder 25 is not disclosed to decrypt reproduction data. The above-noted arguments were set forth at pages 17 and 18 of the Appeal Brief.

Furthermore, the Examiner's position is based on the Decoder 25 being the decryptor. For example, at page 4 of the Examiner's Answer, the Examiner asserts that the Decoder 25 in Figure 3 of MATSUMOTO is both the recited "encryption decoder" and the "contents data decoder". However, in the Examiner's Response to Arguments, the Examiner fails to mention the Decoder 25 or any particular element of Figure 3 for the decryption. In this regard, claim 1 separately recites an "encryption decoder" and a "contents data decoder", each of which the Examiner asserted are disclosed by the Decoder 25 of Figure 3. As noted above, MATSUMOTO does not disclose that the Decoder 25 either "decrypts reproduction output data" or "extracts digital audio data from the decrypted reproduction data". Rather, MATSUMOTO only discloses the operation of the Decoder 25 as being controlled by the Control Unit 26 based on "results of judgments made by the watermark judging unit 27 and CCI judging unit 28".

Accordingly, any interpretation of MATSUMOTO's Decoder 25 possible operation before the CCI Judging Unit 28 and the Watermark Judging Unit 27 is based purely on speculation. In any case, MATSUMOTO does not disclose or suggest that the Decoder 25 performs any type of decryption, as is asserted in the Final Official Action and the Grounds of Rejection set forth in the Examiner's Answer.

Appellant additionally notes that the Examiner has mis-characterized the term "decoding" as "**decoding/decrypting**", and the term "encoder" as "**encoder/encrypter 12**" at, e.g., page 18 of the Examiner's Answer. In this regard, as should be clear from the invention recited in claim 1, a decoder is not necessarily a decryptor (see, e.g., the "contents data decoder"). In any case, the "encoder 12" in Figure 2 of MATSUMOTO is not anywhere disclosed to perform encryption or

decryption of any type. Accordingly, whether the Examiner relies on the Encoder 12 or the Decoder 25, and whether the Examiner relies on the operation of the Decoder 25 as disclosed, or on the operation of the Decoder 25 based on speculation, the Examiner's application of the Encoder 12 and the Decoder 25 is incorrect, and neither is properly applied in the rejections. In particular, neither the Encoder 12 or the Decoder 25 is "an encryption decoder configured to decrypt reproduction output data" from which "the digital audio data" is extracted by a contents data decoder, as in claim 1. Accordingly, Appellant respectfully submits that MATSUMOTO does not disclose or suggest the combination of features recited in claim 1. Appellant further submits that the similar features recited in claims 5 and 7 are not disclosed or suggested by MATSUMOTO.

Claim 11

With respect to the fifth argument of the Examiner's Answer, at pages 18-19, the Examiner asserts that MATSUMOTO disclosed the invention recited in claim 11 at column 15. Claim 11 recites, *inter alia,* "an analog output controller configured to generate analog contents data from the extracted digital audio data... and a digital output controller configured to convert the extracted digital audio data to a specified output format data to be generated therefrom". In contrast, the Examiner now cites a portion of MATSUMOTO, at column 15, lines 35-48, that discloses a system of "digital reproduction/recording apparatuses that employ data transmission using conventionally existing analog signals". In other words, the Examiner is citing an analog input that is used to obtain digital reproduction in MATSUMOTO, as disclosing the generation of "analog contents data from the extracted digital audio data" recited in claim 1. As can be seen by comparison, the newly-applied portions of MATSUMOTO are no more relevant than the portions of MATSUMOTO previously

applied in the Final Official Action, and do not disclose or suggest the particular combination of features recited in claim 11.

Claim 13

With respect to the sixth argument of the Examiner's Answer, at pages 19-20, Appellant notes that the Encoder 12 and the Decoder 25 in MATSUMOTO have been described above, and have been shown as not being disclosed to relate to encryption or decryption. Accordingly, Appellant respectfully submits that the Examiner's assertions with respect to the features recited in claim 13 are in error. In particular, Appellant respectfully submits that it has been shown that MATSUMOTO does not disclose or suggest that reproduced data is decrypted for use in judging whether the reproduction output data is encrypted data, and does not disclose or suggest "decrypted reproduction data being adapted for use in detecting the first copy control information... and the extracted digital contents data being adapted for use in detecting the second copy control information". Accordingly, Appellant respectfully submits that MATSUMOTO does not disclose or suggest the combination of features recited in claim 13.

Claims 3-4, 8 and 10

With respect to the seventh argument of the Examiner's Answer, at pages 20-22, Appellant will not address the individual features of these dependent claims, for the sake of brevity.

Claims 2, 6, 9, 12 and 14

With respect to the eighth argument of the Examiner's Answer, at pages 22-23, the Examiner asserts that claims 2, 6, 9, 12 and 14 are disclosed or suggested by the first through third entries in the Table at Col. 11. However, MATSUMOTO discloses that the state "where copying is freely

permitted" is "00" at col. 10, lines 37-38 and 39-40; that the state of "11" is where copying is to be restricted or prohibited at col. 10, lines 38-39 and 41-42, and that the state of "10" is where copying is to be permitted only once at col. 10, lines 40-41. Despite this explicit teaching, the Examiner asserts that the features of, e.g., claim 2, are disclosed at the first, second, third, sixth and eleventh entries of the Table. Appellant initially notes that none of these entries disclose control of copying based on detection of first copy control information, as in independent claim 1 from which claim 2 depends; nor does the Examiner cite these entries for the teachings of the relevant features of claim 1. As noted above with respect to the Examiner's first argument in the Examiner's Answer, anticipation is not established if in reading a claim on something disclosed in a reference it is necessary to pick, choose and combine various portions of the disclosure not directly related to each other by the teachings of the reference. In re Arkley, 455 F.2d, 586, 587-588, 172 USPQ 524, 5216 (CCPA 1972).

Furthermore, as set forth in the Appeal Brief at, e.g., pages 28-29, in the Table in MATSUMOTO, the reproduction is not controlled consistent with the language of claim 2 (or claims 6, 9, 12 and 14). Rather, if the reproduction were controlled consistent with the language of, e.g., claim 2 in MATSUMOTO, the results would be consistent in the Table of col. 11. Further, it appears that the Examiner has picked and chosen entries of the Table in isolation to justify his assertion that MATSUMOTO discloses the invention of claim 1, while foreswearing such entries to justify his assertion that MATSUMOTO discloses the invention recited in, e.g., claim 2 (which depends from claim 1). Accordingly, it appears that the Examiner has taken one improper interpretation of the disclosure of MATSUMOTO to reject claim 1, and taken a second improper and

contrary interpretation of the disclosure of MATSUMOTO to reject claim 2.

Moreover, as noted by the Examiner at page 23, Matsumoto does not disclose a "copy permission with restriction" for the second copy control information. Appellant further submits that the Examiner has not provided any adequate motivation to further modify MATSUMOTO, i.e., and further complicate the interdependent relationships of the various CCI and Watermark Copy Control Information and Input States to provide such a state. Accordingly, Appellant respectfully submits that MATSUMOTO does not disclose the combination of features recited in claims 2, 6, 9, 12 and 14.

Therefore, Appellant again submits that the applied art of record fails to disclose or suggest the unique combination of features recited in Appellant's claims 1-14 under 35 U.S.C. §§102(e) and 103(a). Accordingly, Appellant respectfully requests that the Board reverse the decision of the Examiner to reject claims 1-14 under 35 U.S.C. §§102(e) and 103(a) and remand the application to the Examiner for allowance.

Thus, Appellant respectfully submits that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. §102(e) and 103(a), and that the present application and each pending claim are allowable over the prior art of record.

Respectfully submitted,
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